

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOCATING ONE-EIGHTH OF THE PETROLEUM STORAGE TANK CLEANUP FEE TO A STATE SPECIAL REVENUE ACCOUNT TO BE USED FOR CERTAIN PROJECTS AND PROGRAMS; APPROPRIATING MONEY FROM THE STATE SPECIAL REVENUE ACCOUNT FOR CERTAIN PROJECTS AND PROGRAMS; AMENDING SECTIONS 75-11-301, 75-11-313, AND 75-11-314, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 75-11-301, MCA, is amended to read:

"75-11-301. Findings and purposes. (1) The legislature finds that the use of petroleum products stored in tanks contributes significantly to the economic well-being and quality of life of Montana citizens.

(2) The legislature finds that leaks, spills, and other releases of petroleum products from storage tanks endanger public health and safety, ground water quality, and other state resources.

(3) The legislature finds that current administrative and financial resources of the public and private sectors are inadequate to address problems caused by releases from petroleum storage tanks and need to be supplemented by a major program of release detection and corrective action.

(4) The legislature finds that proper funding for the program is through a petroleum storage tank cleanup fee paid by persons who use and receive the benefits of petroleum products. The legislature further finds that this general use fee, provided for in 75-11-314, is intended ~~solely~~ to support a program to pay for corrective action and damages caused by releases from petroleum storage tanks and to fund certain other projects and programs. The general use fee is collected from distributors for administrative convenience and is not intended as a method for collecting highway revenue pursuant to the provisions of Article VIII, section 6, of the Montana constitution. The fee is intended to implement the legislature's duty to provide for the administration and enforcement of maintaining and improving a clean and healthful environment for present and future generations, as required by Article IX, section 1, of the Montana constitution and to fund certain other projects and programs.

(5) The purposes of this part are to:

(a) protect public health and safety and the environment by providing prompt detection and cleanup of

1 petroleum tank releases;

2 (b) provide adequate financial resources and effective procedures through which tank owners and
3 operators may undertake and be reimbursed for corrective action and payment to third parties for damages
4 caused by releases from petroleum storage tanks;

5 (c) assist certain tank owners and operators in meeting financial assurance requirements under state
6 and federal law governing releases from petroleum storage tanks; and

7 (d) provide tank owners with incentives to improve petroleum storage tank facilities in order to minimize
8 the likelihood of accidental releases."
9

10 **Section 2.** Section 75-11-313, MCA, is amended to read:

11 **"75-11-313. Petroleum tank release cleanup fund.** (1) There is a petroleum tank release cleanup fund
12 in the state special revenue fund established in 17-2-102. The fund is administered as a revolving fund by the
13 board and is statutorily appropriated, as provided in 17-7-502, for the purposes provided for under subsections
14 (3)(b) and (3)(c). Administrative costs under subsection (3)(a) must be paid pursuant to a legislative
15 appropriation.

16 (2) There is deposited in the fund:

17 (a) ~~all~~ seven-eighths of the revenue from the petroleum storage tank cleanup fee as provided in
18 75-11-314;

19 (b) money received by the board in the form of gifts, grants, reimbursements, or appropriations, from
20 any source, intended to be used for the purposes of this fund;

21 (c) money appropriated or advanced to the fund by the legislature;

22 (d) money loaned to the board by the board of investments; and

23 (e) all interest earned on money in the fund.

24 (3) The fund may be used only:

25 (a) to administer this part, including payment of board and department expenses associated with
26 administration;

27 (b) to reimburse owners and operators for eligible costs caused by a release from a petroleum storage
28 tank and approved by the board; and

29 (c) for repayment of any advance and any loan made pursuant to 17-6-225, plus interest earned on the
30 advance or loan.

(4) Whenever the board accepts a loan from the board of investments pursuant to 17-6-225, the receipts from the fees provided for in 75-11-314 and deposited in the fund pursuant to this section in each fiscal year until the loan is repaid are pledged and dedicated for the repayment of the loan in an amount sufficient to meet the repayment obligation for that fiscal year."

Section 3. Section 75-11-314, MCA, is amended to read:

"75-11-314. Petroleum storage tank cleanup fee -- allocation -- collection -- penalties -- warrant for distraint -- statute of limitations. (1) Except as provided in subsection (4), each distributor shall pay to the department of transportation a petroleum storage tank cleanup fee for each gallon of gasoline, aviation gasoline, special fuel, or heating oil distributed by the distributor within the state and upon which the fee has not been paid by any other distributor. The fee must equal:

~~—— (a) 1 cent for each gallon of gasoline distributed from July 1, 1989, through June 30, 1991;~~

~~—— (b) 0.75 cent for each gallon of gasoline distributed after July 1, 1991;~~

~~—— (c) 0.75 cent for each gallon of aviation gasoline distributed after July 1, 1993;~~

~~—— (d) 0.75 cent for each gallon of special fuel distributed after July 1, 1993; and~~

~~—— (e) 0.75 cent for each gallon of gasoline, aviation gasoline, special fuel, and heating oil distributed after July 1, 1993~~ 2003.

(2) Gasoline, aviation gasoline, special fuel, and heating oil exported or sold for export out of the state must be included in the measure of a distributor's fee.

(3) Alcohol that is blended with gasoline to be sold as gasohol is subject to the fee provided in subsection (1).

(4) A fee may not be imposed or collected beginning on the first day of the first month in the first calendar quarter after the unobligated balance in the fund equals or exceeds \$8 million. Whenever the unobligated fund balance, less claims anticipated for board approval within the next 90 days, is less than \$4 million, the department of transportation shall, within 30 days, notify distributors by mail that the fee is reinstated beginning on the first day of the first month that begins no less than 30 days after the date of the notice. Once reinstated, the fee must be imposed and collected until the unobligated fund balance again equals or exceeds \$8 million.

(5) The department of transportation shall collect the fee in the same manner as the basic gasoline license tax under Title 15, chapter 70, part 2. The provisions of 15-70-103, 15-70-111, 15-70-202, 15-70-205,

1 15-70-206, 15-70-208 through 15-70-212, 15-70-221(2), and 15-70-232 apply to the fee. The provisions of
2 15-70-204, 15-70-207, 15-70-221(1), and 15-70-222 through 15-70-224 do not apply to the fee.

3 (6) The department of transportation shall deposit seven-eighths of the revenue from the fee in the
4 petroleum tank release cleanup fund. The remaining one-eighth of the revenue must be deposited in a special
5 projects and programs account in the state special revenue fund."

6
7 NEW SECTION. **Section 4. Appropriations.** There is appropriated from the special projects and
8 programs account provided for in 75-11-314(6):

9 (1) to the natural resource information system, provided for in Title 90, chapter 15, part 1, \$75,000 for
10 fiscal year 2004 and \$75,000 for fiscal year 2005;

11 (2) to the department of commerce for the community technical assistance program, \$271,000 for fiscal
12 year 2004 and \$271,000 for fiscal year 2005; and

13 (3) to the department of commerce, to support the Kumamoto trade office, \$70,000 for fiscal year 2004
14 and \$70,000 for fiscal year 2005.

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16 NEW SECTION. **Section 5. Effective date.** [This act] is effective July 1, 2003.

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